IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

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WRIT PETITION NO : 22040 of 2004

Between:

Smt. E. Venkatalaxmamma, W/o E. Kristaiah,
R/o Narpala Village and Mandal, Ananthapur District.

..... PETITIONER

AND

1 E.Munilaxmamma, W/o E. Jayaramulu,
R/o H.No. 6-664, Old Bus Stand, Narpala village,

Narpala -515 425, Ananthapur District.
2 The District Panchayat Officer, Near Rudrampeta Bypass,
Ananthapur District.
3 Sri D. Vannurappa, Secretary, Narpala Gram Panchayat,
Narpala Mandal, Ananthapur District.
4 The Gram Panchayat, Narpala, Nafrpala Village and Mandal,
Rep. by its Secretary, Ananthapur District.
5 The District Collector, Ananthapur District, Ananthapur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly in the nature of Writ of Mandamus declaring the Proc. Roc.No. 83/2004 A2 (P4) dated11-10-2004 as illegal, arbitrary and opposed to the provisions of A.P. Panchayat Raj Act 1994 as well as the Rules and consequently direct the respondents 2 to 5 to take steps to revoke the building sanctioned plan granted in B.A.P. No 23/2001-02 dated 30-3-2002 in favour of the 1st respondent and to remove the construction made in H.No. 6-664 of Narpala Village, Ananthapur District

Counsel for the Petitioner:MR.P.M.GOPAL RAO

Counsel for the Respondent No.4: SMT.JYOTHI ESWAR GOGINENI

Counsel for the respondent Nos.2 & 5: G.P. FOR PANCHAYAT RAJ

Counsel for the respondents Nos.1 and 3: NONE APPEARED

The Court at the admission stage made the following:

ORDER:

This writ petition is filed praying to issue a writ of mandamus declaring the proceedings ROC No.83/2004 A.2 dated 11-10-2004 issued by respondent No.2, as illegal and arbitrary, and consequently to direct respondent Nos. 2 to 5 to take steps to revoke the building sanction plan granted in B.A.P. No. 23/2001-02 dated 30-3-2002 in favour of respondent No. 1, and to remove the constructions made in H. No. 6-664 of Narpala Village, Ananthapur District.

The petitioner states that she and respondent No.1 purchased two different houses bearing Nos. 6-665 and 6-664 in the years 1971 and 1993 in Narpala Village, Ananthapur District. The petitioner states that the house of respondent No. 1 is situated towards northern side of her house, and that there is a common passage of 3 ½ feet in between her house and that of respondent No. 1. The petitioner states that in the month of March, 2002, when respondent No.1 without obtaining any permission from respondent No.4, started making construction by encroaching into the common passage and without leaving any space between the two houses, as required under Building Rules, she filed suit in O.S. No. 176 of 2002 on the file of the Principal Junior Civil Judge, Ananthapur, for permanent injunction restraining respondent No.1 from proceeding with illegal constructions. Though, initially in I.A. No. 465 of 2002, the civil Court granted temporary injunction on 14-3-2002, however, the same was vacated on 27-09-2002 and the I.A. dismissed holding that respondent No.1 obtained building permission from respondent No.4 on 30-03-2002. Aggrieved by the orders vacating the injunction order, the petitioner states that she unsuccessfully preferred appeal and revision before the appellate Court and this Court.

The petitioner states respondent No.1 with a view to deceive her and the

officials respondents, has wrongly mentioned the house number as instead of 6-664 in the application seeking grant of permission for construction of a house, and in spite of bringing the said fact to the notice of the official respondents, yet respondent No.4 granted permission for construction of building in Door No. 6-183 to respondent No.1 on
30-3-2002 without verifying the true facts. The petitioner states that the said house does not belong to respondent No.1 and that it belongs to one Sunkkanna as per the particulars furnished in the house hold card issued by the Government. That after several representations to various authorities, respondent No.2 issued orders on 5-3-2003 directing respondent No.4 to stop the illegal constructions being made by respondent No.1 and to take appropriate action against her, and further by his proceedings dated 7-3-2003 directed respondent No.1 not to proceed further with construction work.

In spite of the said proceedings, and in spite of directions made by the District Legal Services Authority by its order dated 15-4-2003 directing respondent Nos. 2 to 5 to discharge their official duties and prevent respondent No.1 from making illegal construction, and in spite of her making several representations to stop the illegal constructions being made by respondent No.1, no action had been taken thereon, and in those circumstances, the petitioner states that she filed W.P. No. 17839 of 2003 challenging the inaction of respondent Nos. 2 to 5 in not taking action against respondent No.1 for removing the illegal construction made by her in Door No.6-664, Narpala Village, and this Court by order dated 16-2-2004 disposed of the said writ petition, directing respondent No.2 to consider and dispose of the representation made by the petitioner as regards the illegal constructions being made by respondent No.1.

Now, it is the grievance of the petitioner that respondent No.2 instead of taking action for removal of the illegal constructions being made by respondent No.1, had without considering the representation, had vide orders dated 11-10-2004 permitted respondent No.1 to proceed further with the constructions, which is illegal and arbitrary. She, therefore, prays this Court, to revoke the building permission granted by respondent No.2 in favour of respondent No.1 in B.A.P.No.23/2001-02,

dated 30-3-2002, and take consequential action for removal of the construction made by respondent No.1 in H. No. 6-664 of Narapala Village, Ananthapur District.

Heard the counsel for the petitioner and the learned Government Pleader for Panchayat Raj for the official respondents.

As can be seen from the narration of facts, the petitioner being the neigbour of respondent No.1, is aggrieved by the constructions being made by respondent No.1, and in that regard, the petitioner earlier filed suit in O.S. No. 176 of 2002 praying for permanent injunction, in which the Court, though initially granted temporary injunction, later on vacated the same on the ground that respondent No.1 was making constructions after obtaining permission from respondent No.1. Against the order passed by the civil Court, vacating the temporary injunction, it is required to notice that the petitioner unsuccessfully filed appeal, and against the order passed by the appellate Court, dismissing the appeal, she filed revision before this Court, which was also dismissed. The petitioner, thereafter, made representations to various authorities, including respondent No.2 and District Legal Services Authority, complaining inaction on the part of the official respondents in not taking action on her representations for removal of the illegal constructions being made by respondent No.1. Ultimately, she filed a writ petition before this Court in W.P. No. 17839 pf 2003, which was disposed of by this Court on
16-2-2004, directing respondent No.2 to consider and dispose of the representation made by the petitioner. In compliance of the orders passed by this Court, respondent No.2, having considered the representation in the light of the observations made in the writ petition, passed orders dated 11-10-2004, holding that building permission granted to respondent No.1 is valid. The relevant portion of the said order reads thus:

> *As directed by the Hon'ble High Court in the W.P.No.17839 of 2003 read above the District Panchayat Officer, Anantapur, issued notices to Smt.E.Muni Lakshmamma, w/o. E.Jayaramaulu and Smt.E.Venkata Lakshmamma, W/o. E.Kristaiah through the reference 5th cited to appear in person or through advocate on 20-08-2004 in his office to represent and plead their point of view with particulars. Both parties have acknowledge the receipt of notice.*
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> *In her written statement Smt. E.Muni Lakshmma has requested to withdraw the orders of the District Panchayat Officer, Ananthapur through which construction of house was stopped.*

Smt. E.Venkata Lakshmamma had requested to postpone the date of hearing on 20-08-2004 by 30 days through her letter dated 27-08-2004. However, she was given 10 days adjournment and the hearing was fixed on
30-08-2004 and notice Roc No.83/2004, dated 09-09-2004 was served on her Smt.E.Venkata Lakshmma has authorized her son E.Siva Ramanjaneyulu to plead on her behalf through her letter dated 22-09-2004. The authorized person of Smt.E.Venkata Lakshmamma (her son) has given a written statement on
23-09-2004. The 4 pages statement contains irrelevant matter and references. The only point relied upon by him is that the permission given to Smt.E.Muni Lakshmma should be cancelled.

A history of the case as narrated above in chronological order, clearly shows that Smt.E.Venkata Lakshmma has left no stone unturned to cause inconvenience to her opposite party and to defame the Gram Panchayat and its functionaries. She made efforts through the open legal ways i.e., from the lower court to District Court and then to the High Court. At every stage of legal process, Smt.E.Venkata Lakshmamma could not succeed in her malafide intentions. The Lower Court to High Court her petitions have been dismissed as prima facie evidence is not adduced. The Hon'ble Court has not found fault with the permission given by the Gram Panchayat. Ultimately the High Court of A,.P.has termed the W.P.No.17839 of 2003 as "Court hunting" and dismissed the W.P.

In the light of judgments by the lower appellate court, the District Judge Court and the High Court of Judicature, it is proved beyond doubt that the case of Smt. E.Venkata Lakshmanna has no evidence to sustain her objections. Therefore, the permission for construction of house granted to Smt.E.Muni Lakshmamma of Narpala is held as valid. The orders issued through this Office telegram dated 05-03-2003 stopping the construction work are hereby withdrawn.

The Panchayat Secretary, Narpala is instructed to take further necessary action as deemed fit in the matter.

Even though respondent No.1 was making constructions after obtaining permission from respondent No.4, and even though on the said ground, the civil Court vacated the temporary injunction granted, yet the petitioner went on lodging complaints against respondent No.1 alleging that respondent No.1 was making illegal constructions, and having regard to the conduct of the petitioner, this Court in the writ petition filed by her, in W.P. No. 17839 of 2003, by order dated 16-2-2004, held that the petitioner resorted to "Court Hunting". As can be seen from the impugned order, which came to be passed on the representation of the petitioner, in compliance of the orders passed by this Court in W.P. No.17839 of 2003, dated 16-2-2004, the petitioner filed irrelevant material and references, and considering the orders passed by the appellate Court and this Court, dismissing the appeal and revision, filed by the petitioner against the order passed by the civil Court vacating the temporary injunction granted initially, found that the petitioner had no evidence to sustain her objections, and held that the permission granted to respondent No.1 is valid, and holding so rejected the representation of the petitioner, and withdrew the telegram dated 5-3-2003 issued to respondent No.1 to stop the construction, and no exception can be taken thereto.

The conduct of the petitioner shows that she is indulging in witch hunting against respondent No.1. Even though the appellate Court and this Court, in appeal and revision, upheld the order passed by the civil Court vacating the temporary injunction granted in favour of the petitioner earlier, yet she resorted to making representations alleging that respondent No.1 was making constructions illegally, and even though respondent No.2 in the impugned order, held that the petitioner failed to prove her case, yet she filed the present writ petition. The manner in which the petitioner has been pursuing the case in spite of losing in succession before all the forums shows that the petitioner is bent upon harassing respondent No.1 and the official respondents, by making them run from pillar to post, even though all the forums found that the petitioner had no case to defend. The petitioner in order to settle her ego, had resorted to frivolous litigation, and thereby wasted the precious time of the authorities and the Courts, which admittedly belongs to the general public, and the act of the petitioner in wasting the public time, cannot be allowed to go uncompensated, and therefore, I deem it appropriate to dismiss the writ petition awarding exemplary costs.

In the circumstances, the writ petition has no merit, and the same is accordingly dismissed awarding exemplary costs of Rs.5,000/-.

N.V.R AMANA,J

01-12-2004

Stp

To:

1 The District Panchayat Officer, Near Rudrampeta Bypass,
Ananthapur District.
2 Sri D. Vannurappa, Secretary, Narpala Gram Panchayat,
Narpala Mandal, Ananthapur District.
3 The Secretary, Gram Panchayat, Narpala, Narpala Village and Mandal,
Ananthapur District.
4 The District Collector, Ananthapur District, Ananthapur.

5. 2 CCs to GP for Panchayat Raj, High Court Buildings,

Hyderabad (OUT)

6. 2 CD copies.

THE HON'BLE MR JUSTICE N.V. RAMANA

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WRIT PETITION NO : 22040 of 2004

01-12-2004